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HOUSE BILL 402

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

JERRY LEE ALWIN

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL LAW; CHANGING THE ELEMENTS OF CERTAIN  
HOMICIDE STATUTES; AMENDING SECTIONS OF THE CRIMINAL CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-2-1 NMSA 1978 (being Laws 1963,  
Chapter 303, Section 2-1, as amended) is amended to read:

"30-2-1. MURDER. --

A. Murder in the first degree is the killing of one  
human being by another without lawful justification or excuse,  
by any of the means with which death may be caused:

(1) by any kind of willful, deliberate and  
premeditated killing;

(2) ~~[in the commission of or attempt to commit  
any felony]~~ by committing murder in the second degree during the  
commission of or an attempt to commit a felony that is dangerous

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1 to human life; or

2 (3) by any act greatly dangerous to the lives  
3 of others, indicating a depraved mind regardless of human life.

4 Whoever commits murder in the first degree is guilty of a  
5 capital felony.

6 B. Unless he is acting ~~[upon]~~ as a result of  
7 sufficient provocation, upon a sudden quarrel or in the heat of  
8 passion, a person who kills another human being without lawful  
9 justification or excuse commits murder in the second degree: ~~[if~~  
10 ~~in performing the acts which cause the death he knows that such~~  
11 ~~acts create a strong probability of death or great bodily harm~~  
12 ~~to that individual or another.]~~

13 ~~Murder in the second degree is a lesser included offense of~~  
14 ~~the crime of murder in the first degree]~~

15 (1) by intentionally killing that human being;

16 or

17 (2) by engaging in unjustifiable conduct that  
18 the person knows will create a strong probability of death to  
19 that human being.

20 Whoever commits murder in the second degree is guilty of a  
21 second degree felony resulting in the death of a human being. "

22 Section 2. Section 30-2-3 NMSA 1978 (being Laws 1963,  
23 Chapter 303, Section 2-3, as amended) is amended to read:

24 "30-2-3. MANSLAUGHTER. -- ~~[Manslaughter is the unlawful~~  
25 ~~killing of a human being without malice.]~~

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A. Voluntary manslaughter consists of ~~[manslaughter committed upon a sudden quarrel or in the heat of passion]~~ a person committing murder in the second degree that is mitigated by the fact that the killing was committed upon a sudden quarrel or in the heat of passion, as a result of sufficient provocation. The state shall not have the burden of proving the existence of the mitigation.

Whoever commits voluntary manslaughter is guilty of a third degree felony resulting in the death of a human being.

B. Involuntary manslaughter consists of ~~[manslaughter committed in the commission of an unlawful act not amounting to felony, or in the commission of a lawful act which might produce death in an unlawful manner or without due caution and circumspection]~~ a person causing the death of another human being by engaging in conduct that shows a conscious disregard of an unjustifiable risk of death.

Whoever commits involuntary manslaughter is guilty of a fourth degree felony. "

Section 3. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1997.